

REMARKS

Claims 1-33 are currently pending.

Examiner Interview

Applicant thanks the Examiner for the courtesy of the telephone interview on November 29, 2005, in which the Examiner informed the Applicant that a notice of non-compliant amendment was sent in error and would be followed by an office action.

Rejections under 35 U.S.C. § 102(e)

Claims 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, and 31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sezan et al. (USPN 6,236,395, "Sezan").

In independent claims 1, 11, and 21, Applicant claims "executable storage management instructions" for automated management of a media storage device. The Examiner has interpreted a "system description scheme" disclosed in Sezan as being equivalent to the claimed executable storage management instructions. In the portions cited by the Examiner and elsewhere, Sezan discloses:

The system description scheme 22 preferably manages the individual programs and other data. The management may include maintaining lists of programs, categories, channels, users, videos, audio, and images. The management may include the capabilities of a device for providing the audio, video, and/or images. Such capabilities may include, for example, screen size, stereo, AC3, DTS, color, black/white, etc. The management may also include relationships between any one or more of the user, the audio, and the images in relation to one or more of a program description scheme(s) and a user description scheme(s). In a similar manner the management may include relationships between one or more of the program description scheme(s) and user description scheme(s).

(Sezan, col. 6, lines 23-36).

[T]he system description scheme will be capable of storing the information contained within the program description scheme, so that the information is properly indexed.

(Sezan, col. 7, lines 18-21).

Thus, Sezan's description schemes provide data to store a set of information (such as lists, capabilities of device, user preference data, and so on) that can be used in enabling browsing, filtering, searching, archiving, and personalization. Indeed, Sezan's

description scheme generation module and program analysis module provide data to a data storage unit. It is well known that data is not properly equivalent to executable instructions. Thus, Sezan does not teach or suggest that the system description scheme includes “executable storage management instructions” that cause automated management of the media storage device, as claimed.

Therefore, Sezan does not anticipate independent claims 1, 11, and 21, and associated dependent claims 2, 4, 6-9, 12-14, 16-19, 22-24, 26-29, and 31. Accordingly, Applicant respectfully requests the withdrawal of the rejection of the claims.

Rejections under 35 U.S.C. § 103(a)

Claims 5, 10, 15, 20, 25, and 30

Claims 5, 10, 15, 20, 25, and 30, which depend from one of independent claims 1, 11, and 21, stand rejected under 35 U.S.C. § 103(a) as being obvious over Sezan in view of Kunkel et al. (USPN 2002/0056093, “Kunkel”). As discussed above, Sezan does not teach or suggest “executable storage management instructions” for automated management of a media storage device, as claimed in independent claims 1, 11, and 21. Kunkel does not supply the missing limitations.

Kunkel discloses transmitting information in a broadcast distribution system that is targeted to a system user. Kunkel does not teach or suggest “executable storage management instructions” for automated management of a media storage device, as claimed in independent claims 1, 11, and 21.

As neither Sezan nor Kunkel teach each and every limitation of independent claims 1, 11, and 21, Applicant respectfully submits that Applicant’s invention as claimed in associated dependent claims 5, 10, 15, 20, 25, and 30 is not rendered obvious by the combination of the references. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 103(a).

Claims 32-33

Claims 32-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sezan in view of Kenner et al. (USPN 5,953,716, “Kenner”). Applicant respectfully

submits that the combination is improperly motivated and furthermore does not teach each and every element of the invention as claimed in claims 32-33.

As acknowledged by the Examiner, Sezan does not teach or suggest,

“receiving an updated version of a particular one of the plurality of clips, ... wherein the storage management instructions instruct the media storage device to create an updated version of the program by using received context data associated with the particular one of the plurality of clips to update the stored program with the updated version of the particular one of the plurality of clips,”

as recited in claim 32.

Kenner discloses retrieving video clips that are stored locally or at a remote location. Keener discloses only that if a search engine (referred to as the PIM) locates a video clip that supersedes one currently stored locally, the old data is deleted, and the new data containing the updated video clip is downloaded. (Keener, col. 9, lines 50-54). Thus, Keener discloses only updating a locally stored *video clip*. Keener does not teach or suggest updating the *stored program* with the updated version of the particular one of the plurality of clips, as recited in claim 32.

Applicant also respectfully submits that the Examiner has not demonstrated the motivation required to combine Sezan and Keener. The Examiner states that “it would have been obvious to one having ordinary skill in the art to modify Sezan to include the claimed limitations for the benefit of providing a user with the most up-to-date and recent clips and programming.” (Office Action dated 04/12/06, p. 7). The Examiner appears to have merely taken a desired end result, as recited in Applicant’s claims, and stated that a combination of Sezan and Keener achieves this end result. Such a position is impermissible hindsight. Applicant respectfully requests the Examiner point to the required intrinsic or extrinsic motivation within the references themselves, or within knowledge of persons of ordinary skill in the art at the time of the invention, to form such a combination.

Furthermore, because neither Sezan nor Keener teaches updating the stored program with the updated version of the particular one of the plurality of clips, as recited in claim 32, the combination cannot be interpreted properly as disclosing the claimed element.

Therefore, the combination cannot render obvious Applicant's invention as claimed in claim 32 and associated dependent claim 33, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

SUMMARY

Claims 1-33 are currently pending. In view of the foregoing remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x309.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: July 12, 2006



Sheryl Sue Holloway
Attorney for Applicant
Registration No. 37,850

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300